

CAO 8-134
 55-2222

SEP 10 1955

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MEMORANDUM FOR: Deputy Director (Support)

SUBJECT: Secrecy Agreement [REDACTED] Change 2)

1. I understand that several senior officials participated in the drafting of the above revised secrecy agreement. I suspect, however, that their efforts may not have been fully coordinated because the resulting product seems to contain serious flaws.

2. I would not venture to criticize this secrecy agreement at this time excepting for my honest belief that its use will bring serious criticism to the Agency. This agreement will be read by thousands of new and resigning employees and depending upon the attitude of the individual there will be criticism ranging from its poor grammatical construction, ambiguity and inconsistency to the far more dangerous charge that the document impinges upon the basic rights of a United States citizen.

3. The latter, of course, is not CIA's intent but the document itself seems to be prima facie evidence to the contrary and I believe it is only a matter of time before this document is brought to the attention of legal legislative bodies and "gag" charges are publicly levied at CIA.

4. The more significant of my criticisms are as follows:

A. Grammatical and Editorial

(1) The last sentence in paragraph 3 states that "this undertaking shall be equally binding upon me after my employment with the Agency as during it." The noun "employment" has as its primary meaning the act of employing. Accordingly, in normal usage the term "after employment" would refer to the period of employment. In this connotation the sentence does not convey the meaning intended.

(2) The first sentence of paragraph 5 is a grammatical garble. The clause commencing with "or which would reasonably

*No. Again
 language is poor
 but meaning is
 clear.*

Agree

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be expected * * " does not tie in with the balance of the sentence as it has been constructed. The result is almost unintelligible excepting by inference.

B. Comprehension and Scope

(1) It is my opinion that paragraph 2 of the secrecy agreement was intended to cover unauthorized disclosure of classified information relating to the national defense. Paragraph 3 was probably originally drafted to extend the prohibition against disclosure of classified information to the area of general knowledge which would be acquired by any employee concerning intelligence methods, techniques, administrative process and general intelligence information, which although not classified or not classifiable in the normal sense nevertheless constitutes information which if disclosed would be to the detriment of the intelligence activities of our government. The prohibition against the disclosure of such information is based upon a contractual commitment evidenced by the employee's acknowledgment that his promise not to disclose such information during or after his period of employment with CIA is a condition freely undertaken prior to employment. In the second sentence of paragraph 3, however, the word "such" seems to have been inserted prior to the words broadening the meaning of the word "information". The insertion of this word immediately restricts the prohibition against disclosure of information to classified information. Insertion of this single word seems to completely alter, if not negate, the intent of paragraphs 6 and 8.

(2) Paragraph 4 appears to be in direct conflict with paragraphs 5, 6 and 8. Paragraph 4 clearly indicates that the responsibility of the individual is limited to ascertaining whether or not the information is classified before he discloses information relating to the Agency which is not classified. I do not feel that this was the intent since the other paragraphs cited indicate we are trying to avoid the disclosure of general information concerning intelligence activities which of itself may not be classified but nevertheless may be very sensitive. If I am correct, we have defeated ourselves.

C. Legality

(1) Few if any of the grievances and complaints contemplated in this paragraph will of themselves pertain to classified information. Consequently the undertaking not to carry grievances and complaints outside the Agency on the basis that so doing would be a

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violation of the undertaking set forth in paragraph 3 would be relatively meaningless since paragraph 3 only refers to classified information. In most cases there would in fact be no prohibition in this secrecy agreement against employees carrying grievances and complaints outside of the Agency so long as so doing did not require them to disclose classified information. I do not feel that this was the intent of paragraph 6, and if I am correct this deficiency should be remedied.

(2) If, on the other hand, it was intended that paragraph 6 in conjunction with paragraph 3 should constitute a legal document which would prevent an employee from resorting to legal or legislative action in order to obtain satisfaction for alleged financial or personal injury done to him by CIA, I feel certain that this document will be held not only legally unenforceable but will be looked upon as intentional subrogation of the rights of an American citizen. The pretext that willingness to subrogate one's personal rights under situations absolutely unforeseeable at the time of employment by CIA will certainly be held illegal and contrary to the public interest and can only be interpreted by the public as a gag on the individual. The undersigned worked on an earlier draft of this provision and it was agreed by the Office of the General Counsel at that time that the maximum CIA could do would be to require the individual to notify CIA of his intention to carry a grievance outside the Agency and to agree to collaborate with CIA so that any sensitive information necessarily disclosed in the prosecution of any claim or complaint could be held to a minimum and the best possible protection provided.

5. My recommendation is that this secrecy agreement be completely rewritten after first analyzing the specific points which are at issue and after determining such commitments as we can legally and with propriety exact from the individual as a condition to employment. I do not recommend that an attempt be made to re-edit or revise the existing secrecy agreement for the reason that its present deficiencies appear to have arisen through the process of over-revision of an existing document. I believe a much more clear, less repetitious and acceptable document can be prepared with a new start.

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